

**MINUTES**  
**of the Sixth Meeting of the**  
**Dental Auxiliaries' Technical Review Committee**

**February 12, 2015**  
**9:00 a.m. to Noon**  
**Lower Level Conference Room 'A'**  
**The Nebraska State Office Building, Lincoln, NE**

**Members Present**

Wayne Stuberg, P.T., Ph.D. (Chair)  
Linda Black, R.T.  
Mike Millea, L.M.H.P.  
Ryan McCreery, Ph.D.  
Allison Dering-Anderson, PharmD, R.P.  
Stephen Peters, B.A., M.A.

**Members Absent**

Ed Bruening

**Staff Present**

Marla Scheer  
Ronald Briel  
Matt Gelvin

**I. Call to Order, Roll Call, Approval of the Agenda and the Minutes**

Dr. Stuberg called the meeting to order at 9:00 a.m. The roll was called; a quorum was present. The agenda and Open Meetings Law were posted and the meeting was advertised online at [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx). The committee members approved the agenda for the current meeting and the minutes of the previous meeting, unanimously.

**II. Formulation of Recommendations on the Proposals by the Committee Members**

***Actions taken on the NDHA proposal:***

***The criteria for initial credentialing: (To be applied to proposal elements in the above proposal that pertain to creating licensure for dental assistants)***

The committee members briefly reviewed the criteria preparatory to formulating their recommendations. Dr. Stuberg commented that he would abstain from voting unless his vote would be necessary to break a tie.

**Criterion one:** Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Action taken: Voting against the proposal on criterion one were Dering-Anderson, McCreery, Millea, Black, and Peters. There were no votes in favor of the proposal on criterion one.

**Comments from committee members:**

- Ms. Black stated that there no evidence was presented that there is a safety issue in the current situation. She added that the proposed licensure of some dental assistants but not all dental assistants would confuse the public.
- Dr. Dering-Anderson stated that no evidence was presented to document a safety issue in the current situation. She added that there is some confusion at the Board level regarding what can or cannot be delegated.
- Dr. McCreery stated that he too saw no evidence of a safety issue in the current situation.
- Dr. Millea stated that the current situation is adequate as far as safety is concerned.

- Mr. Peters stated that there is great disparity between the two contending parties, and that this needs to be resolved.

**Criterion two:** Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

Action taken: Voting in favor of the proposal on criterion two were Black and Millea. Voting against the proposal on criterion two were Dering-Anderson, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that there is no reason to believe that this proposal would diminish the supply of dental care providers.
- Dr. Dering-Anderson stated that this proposal would overregulate dental assistants and could result in a diminishment in the supply of dental assistants.
- Dr. McCreery stated that this proposal would create hardships for dental assistants and that some dental assistants might drop out of the profession resulting in reduced access to services.
- Dr. Millea stated that he could see no significant harm from this proposal.
- Mr. Peters stated that this proposal has potential to limit the supply of dental assistants because of its demand for increased education and training and tighter supervision of dental assistants.

**Criterion three:** The public needs assurance from the state of initial and continuing professional ability.

Action taken: Voting in favor of the proposal on criterion three were Black and Dering-Anderson. Voting against the proposal on criterion three were Millea, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that increased education, training, and testing is a good thing and can only increase assurance of improved competency of dental assistants.
- Dr. Dering-Anderson stated that the public deserves to know that those who do dental assisting are competent, and the proposal does offer a means of ensuring such competency.
- Dr. McCreery expressed agreement that the public needs assurance of competent practice by dental assistants, but added that this assurance should come from the supervising dentist who is ultimately responsible for ensuring the quality of all dental work done in a dental office.
- Dr. Millea stated that the current 'OJT' method of training dental assistants has worked well and should be allowed in order to ensure that access to care does not decline in remote rural areas.
- Mr. Peters stated that neither proposal holds up very well as regard ensuring the competency of all dental assistants, and expressed concern about the fact that neither proposal calls for the licensure of all dental assistants.

**Criterion four:** The public cannot be protected by a more effective alternative.

Action taken: Voting against the proposal on criterion four were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes in favor of the proposal on criterion four.

Comments from committee members:

- Ms. Black stated that this proposal seeks to make changes in the supervision of dental assistants that are unnecessary. She added that this proposal seeks to create a level of supervision that does not currently exist, and that the rationale for such an idea was never made clear by this applicant group.
- Dr. Dering-Anderson stated that she could see no rationale for the proposed tightening of the supervision of dental assistants in this proposal, adding that the proposed creation of an additional level of supervision for dental assistants seems unnecessary and arbitrary.
- Dr. McCreery expressed agreement with Ms. Black and Dr. Dering-Anderson
- Dr. Millea stated that the proposed tightening of supervision of dental assistants would not necessarily result in improved quality of services.
- Mr. Peters stated that there are alternatives to this proposal that better meet the needs of Nebraskans.

***The criteria for proposed changes in scope of practice: (To be applied to proposal elements in the NDHA proposal that seek to expand the scope of practice of Dental Hygienists)***

**Criterion one:** The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Action taken: Voting in favor of the proposal on criterion one were Dering-Anderson, McCreery, and Peters. Voting against the proposal on criterion one were Black and Millea.

Comments from committee members:

- Ms. Black stated that the proposal is too restrictive as regards dental assistant supervision which could make access to care problems worse than they already are.
- Dr. Dering-Anderson stated that access to care is a problem.
- Dr. McCreery stated that access to care is a problem.
- Dr. Millea stated that the current situation is safe for the public, and that the proposal might inadvertently make things worse despite its good intentions.
- Mr. Peters stated that there are critical pieces that neither proposal currently has that need to be added.

**Criterion two:** Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

Action taken: Voting in favor of the proposal on criterion two was Dering-Anderson. Voting against the proposal on criterion two were Black, Millea, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that this proposal contains too many irreversible procedures. She added that this proposal has created new confusion as regards supervision of dental hygiene work, and that supervision of the administration of local anesthesia by dental hygienists is too minimal in this proposal.
- Dr. Dering-Anderson stated that the expanded functions would help to address access to care problems in our state.
- Dr. McCreery stated that no evidence was presented that shows a connection between expanding the scope of practice of dental hygienists, on the one hand, and improved access to care in remote rural areas, on the other.
- Dr. Millea expressed concern that the proposal might have a negative impact on access to dental care due to its restrictiveness vis-à-vis other dental providers. He added that the proposal might also increase potential for harm due to it granting too much autonomy to dental hygienists vis-à-vis such things as administering local anesthesia, for example.
- Mr. Peters stated that this proposal grants too much autonomy to dental hygienists who might not be prepared to perform some of the advanced procedures defined for them in this proposal.

**Criterion three:** The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

Action taken: Voting against the proposal on criterion three were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes in favor of the proposal on criterion three.

Comments from committee members:

- Ms. Black expressed concerns about there being too many irreversible procedures in this proposal.
- Dr. Dering-Anderson stated that she sees potential for harm stemming from the irreversible procedures defined for dental hygienists in this proposal.
- Dr. McCreery also expressed concerns about there being too many irreversible procedures in this proposal.
- Dr. Millea also expressed concern about there being too many irreversible procedures defined for dental hygienists in this proposal.
- Mr. Peters stated that the proposal would create too much additional risk to public safety vis-à-vis irreversible procedures and such poorly defined ideas as “dental hygiene diagnosis” which is not clarified.

**Criterion four:** The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

Action taken: Voting against the proposal on criterion four were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes in favor of the proposal on criterion four.

Comments from committee members:

- Ms. Black stated that this proposal does not document that dental hygienists possess the training necessary to perform the irreversible procedures defined in their proposal.
- Dr. Dering-Anderson stated that this applicant group raises questions about the state of its knowledge and intent when it misuses supervisory terminology and proposes to invent supervisory levels and procedures that no other dental profession has endorsed.
- Dr. McCreery stated that little information was provided in this proposal about the additional education and training for dental hygienists to perform advanced procedures such as administering local anesthesia, for example.
- Dr. Millea expressed concern about the references to “dental hygiene diagnosis,” commenting that this is not clearly defined, nor is there any documentation as to where or how well such a procedure is learned.
- Mr. Peters expressed concern about how good the proposed additional training for dental hygienists to perform advanced procedures would be.

**Criterion five:** There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill of service in a safe manner.

Action taken: Voting in favor of the proposal on criterion five was Millea. Voting against the proposal on criterion five were Black, McCreery, Dering-Anderson, and Peters.

Comments from committee members:

- Dr. McCreery stated that at least some of the additional course work identified by the applicant group was designed for dentists not dental hygienists.
- Ms. Black expressed agreement with Dr. McCreery.
- Dr. Dering-Anderson expressed agreement with Dr. McCreery.
- Mr. Peters stated that he cannot see a clear connection between the proposed new scope elements being proposed for dental hygienists, on the one hand, and the education and training being proposed, on the other.
- Dr. Millea stated that he assumed the pertinent additional education and training for advanced procedures was already in place.

**Criterion six:** There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

Action taken: Voting in favor of the proposal on criterion six were Dering-Anderson and Peters. Voting against the proposal on criterion six were Black, Millea, and McCreery.

Comments from committee members:

- Ms. Black expressed concern that the assessment ‘piece’ has not been defined or clarified vis-à-vis this proposal.
- Dr. Dering-Anderson stated that Nebraska is a mandatory reporting state and that if you ‘mess up’ you will be reported and action will be taken against your license.

- Mr. Peters stated that the basic, minimum level necessary to define and assess competency are in place.
- Dr. McCreery commented that the dental hygienists are attempting to use existing mechanisms to establish competency for existing practitioners, but it is not clear if these are available for dental hygienists or supported by dentists who administer such programs.
- Dr. Millea commented that it is somewhat ominous that the lowest graduate is still a licensee.

### **Committee Actions Taken on the Proposal as a Whole:**

Action taken: Voting in favor of the proposal were Millea. Voting against the proposal were Black, Dering-Anderson, Peters, and McCreery. By this action the committee members decided to recommend against approval of the NDHA proposal.

### **Comments from committee members:**

- Ms. Black stated that there are too many irreversible procedures in this proposal.
- Dr. Dering-Anderson stated that the irreversible procedures in this proposal make this proposal too risky for the public.
- Dr. McCreery stated that there is a need to increase access to care, but that this proposal is not a safe way to do this.
- Dr. Millea stated that dentists should allow dental hygienists to have more autonomy so they can help address access to care concerns of rural Nebraska.
- Mr. Peters stated that the education and training being proposed does not clearly relate to what this applicant group is proposing.

### **Comments by the committee chair:**

Dr. Stuberger made the following comments to briefly summarize committee concerns about the NDHA proposal:

- Regarding dental hygiene diagnosis: No evidence was presented to show that dental hygienists are trained to diagnose.
- Irreversible procedures such as tooth removal: No evidence was presented to show that dental hygienists are adequately trained to manage these procedures.
- Administering local anesthesia under general supervision: No evidence was presented that shows that dental hygienists can manage this procedure safely and effectively without a dentist being on the premises.
- Safely administering fluorides: Training and supervision not clarified.
- Confusion regarding proposed changes in supervision terminology:
- Restrictive proposed regulatory provisions for dental assistants:

## ***Actions taken on the NDAA/NDA proposal:***

### **The criteria for initial credentialing: (To be applied to proposal elements in the above proposal that pertain to creating licensure for Dental Assistants)**

**Criterion one:** Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Action taken: Voting against the proposal on criterion one were Dering-Anderson, McCreery, Millea, Black, and Peters. There were no votes in favor of the proposal on criterion one.

#### **Comments from committee members:**

- Ms. Black stated that there no evidence was presented that there is a safety issue in the current situation. She added that the proposed licensure of some dental assistants but not all dental assistants would confuse the public.
- Dr. Dering-Anderson stated that no evidence was presented to document a safety issue in the current situation. She added that there is some confusion at the Board level regarding what can or cannot be delegated.
- Dr. McCreery stated that he too saw no evidence of a safety issue in the current situation.
- Dr. Millea stated that the current situation is adequate as far as safety is concerned.
- Mr. Peters stated that there is great disparity between the two contending parties, and that this needs to be resolved.

**Criterion two:** Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

Action taken: Voting in favor of the proposal on criterion two were Black, Dering-Anderson, McCreery, and Millea. Voting against the proposal on criterion two was Peters.

#### **Comments from committee members:**

- Ms. Black stated that the information on defining a career path for dental assistants was a positive thing in that it holds promise of improving access to care in remote rural areas.
- Dr. Dering-Anderson stated that this proposal would do a better job of increasing access than would the NDHA proposal.
- Dr. McCreery agreed that this proposal would do a much better job of improving access than would the NDHA proposal.
- Dr. Millea agreed that this proposal holds promise of improving access to care.
- Mr. Peters stated that this proposal was confusing in that it does not actually define how a career path would actually be defined. He added that the proposed multiple tiers of practice for dental assistants are only going to be confuse the public.

**Criterion three:** The public needs assurance from the state of initial and continuing professional ability.

Action taken: Voting in favor of the proposal on criterion three was Dering-Anderson. Voting against the proposal on criterion three were Millea, Black, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that the proposed education, training, and testing is not based on national standards.
- Dr. Dering-Anderson stated that there is an option here to implement national standards and that this would help the public and dental professionals in the long run.
- Dr. McCreery stated that this proposal is less restrictive than the NDHA proposal, but added that the multiple tiers would only create confusion for the public.
- Mr. Peters stated that the level of confusion is great in this proposal and asked what exactly would the education and training entail? There's no way the public can understand all of this complexity.

**Criterion four:** The public cannot be protected by a more effective alternative.

Action taken: Voting in favor of the proposal on criterion four were Millea, McCreery, and Peters. Voting against the proposal on criterion four were Black and Dering-Anderson.

Comments from committee members:

- Ms. Black stated that this proposal does not define national educational standards that are consistent. The proposal places too much arbitrary authority in the Board of Dentistry.
- Dr. Dering-Anderson stated that this proposal leaves a huge gap in the proposed regulation of dental services by ignoring the whole issue of dental sealants, adding that at some point this issue must be addressed.
- Dr. Millea stated that he likes the way this proposal brings dentists and dental auxiliaries together for the common goal of providing accessible services.
- Dr. McCreery stated that he does not see a better option for addressing dental service issues for Nebraska dental patients.
- Mr. Peters stated that this proposal is the better of the two proposals, although by no means is it perfect.

**The criteria for proposed changes in scope of practice: (To be applied to proposal elements in the above proposal that seek to expand the scope of practice of Dental Hygienists)**

**Criterion one:** The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Action taken: Voting in favor of the proposal on criterion one were Black, Dering-Anderson, and McCreery. Voting against the proposal on criterion one were Millea and Peters.

Comments from committee members:

- Ms. Black stated that the proposal would do a better job of increasing access to dental care in rural areas of Nebraska.
- Dr. Dering-Anderson stated that this proposal would be able to improved access to care in our state.
- Dr. McCreery stated that something must be done to improve access to care in dental services, and of the two proposals, this one would do the best job.
- Dr. Millea stated that he does not see a health related problem in these discussions.
- Mr. Peters stated that there are so many points of confusion and gaps in education and training that it is difficult to see whether or not it would improve access to care or not.

**Criterion two:** Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

Action taken: Voting in favor of the proposal on criterion two were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes against the proposal on this criterion.

Comments from committee members:

- Dr. Dering-Anderson stated that this proposal would do more to improve access to dental care in Nebraska than would the NDHA proposal.
- Dr. McCreery stated that the testimony at the public hearing clarified for him that this proposal would do more to improve access to dental care than would the NDHA proposal.
- Dr. Millea agreed with Dr. McCreery.
- Mr. Peters also agreed with Dr. McCreery.

**Criterion three:** The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

Action taken: Voting in favor of the proposal on criterion three were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes against the proposal on criterion three.

Comments from committee members:

- Ms. Black stated that there is nothing to indicate that there would be new harm stemming from this proposal.
- Dr. Dering-Anderson stated that there is less danger here than in the NDHA proposal.
- Dr. McCreery stated that there is no compelling evidence that new harm would be created by this proposal.

- Dr. Millea stated that there are no perfect proposals, but that this one is clearly the better of the two proposals under review.
- Mr. Peters stated that there are dangers and pitfalls with both of these two proposals, and that he is not ready to say that this one is clearly better than the NDHA proposal, all things considered.

**Criterion four:** The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

Action taken: Voting in favor of the proposal on criterion four were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes against the proposal on criterion four.

Comments from committee members:

- Ms. Black stated the education and training in this proposal fit a clear and appropriate standard.
- Dr. Dering-Anderson stated that the education and training in this proposal are much better overall than with the NDHA proposal.
- Dr. McCreery stated that no evidence was presented to indicate that the education and training being proposed was in any way inadequate.
- Dr. Millea stated that the education and training seem adequate to him.
- Mr. Peters commented that the education and training seemed sufficiently rigorous to him.

**Criterion five:** There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill of service in a safe manner.

Action taken: Voting in favor of the proposal on criterion five were Millea, Black, McCreery, Dering-Anderson, and Peters. There were no votes against the proposal on this criterion.

Comments from committee members:

- Dr. McCreery stated that the ideas presented in this proposal are well defined and have been implemented successfully in other states.
- Ms. Black expressed agreement with Dr. McCreery.
- Dr. Dering-Anderson expressed agreement with Dr. McCreery.
- Mr. Peters stated that this proposal clarifies that the dentist is in control of dental care and that this goes a long ways to ensuring the public of the safety of dental care services in Nebraska.
- Dr. Millea agreed with Dr. Dering-Anderson's comments.

**Criterion six:** There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

Action taken: Voting in favor of the proposal on criterion six were Dering-Anderson, Peters, Black, Millea, and McCreery. There were no votes against the proposal on criterion six.

Comments from committee members:

- Ms. Black stated that the utilization of 'DANB' standards in this proposal makes it acceptable to her.
- Dr. Dering-Anderson stated that she trusts the Board of Dentistry to administer this proposal if it were to pass.
- Mr. Peters stated that the basic, minimum level necessary to define and assess competency are in place.
- Dr. McCreery expressed agreement Mr. Peters.
- Dr. Millea also expressed agreement with Mr. Peters.

**Committee Actions Taken on the Proposal as a Whole:**

Action taken: Voting in favor of the proposal were Millea, Black, Dering-Anderson, Peters, and McCreery. By this action the committee members decided to recommend approval of the NDAA/NDA proposal.

Comments from committee members:

- Ms. Black stated that for her it was the utilization of the national 'DANB' standards that made this a proposal she could support.
- Dr. Dering-Anderson stated that this proposal is not perfect but that it is the better of the two proposals under review. However, she added that the sealant issue is still a problem and that it needs to be dealt with somehow, somewhere in this proposal.
- Dr. McCreery stated that there is a need for a continuum of care and that this proposal provides this and does so in a manner that is safe and provides the promise of improved access to dental care.
- Dr. Millea stated that this proposal holds out hope for improved access to dental care for rural Nebraska.
- Mr. Peters stated that the education and training in this proposal provides for a reasonable amount of rigor. He added that he hoped that the two contending parties could find a way to get back together again so that they can move forward together.

**III. Public Comment**

Representatives of the applicant groups thanked the committee members for their hard work and their patience during the review.

The committee members thanked program staff for their assistance and guidance during the review.

**IV. Other Business and Adjournment**

There being no other business, the meeting was adjourned at noon.

